

# **Keynote Speech**

Mitsuyuki Inaba (Ritsumeikan University)

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Good morning, ladies and gentlemen. I am Mitsuyuki Inaba at the Center for Forensic Clinical Psychology at Ritsumeikan University. Actually, I study and do research on legal issues from the perspective of information and communication sciences. It seems that I am given this task to speak a rather general and overview type of presentation before substantive presentations are going to be delivered later.

First, I would like to start with my observations concerning these two questions; why do we need audio and video recording of interrogation process in Japan? I'm not a psychologist, nor a lawyer or jurist. So from communication science and humanity's point of view, I would like to make some observations concerning this important question. Second is after an audio-video taping is realized, then what do we need to do from there?

First, I would like to give you one example which is the specific case I had been involved in, but before that specific case story, I would like to give you some background. I am a Japanese living in Japan, and we have been told that Japan is mono-ethnic, mono-linguistic society, but as a model fact, Japan is already a multilingual and a multicultural society. Through a re-examination of one particular case, I came to firmly believe in this fact, I would like to say.

So, Japan being a multilingual and multicultural society, it can be supported by this particular data; for instance, this is from the Ministry of

Justice of Japan. As of 2003, already in Japan, more than 11 million people from overseas entered in this country, and there are an increased number of people who do not understand our language, Japanese. Also, non-Japanese residents in Japan already exceeded 2-million mark as of 2003. Thus, Japan is no longer a mono-ethnic, mono-lingual society today. Furthermore, if you look dialects of Japanese spoken in this archipelago, it seems that it is not quite easy for all Japanese to speak and understand standard Japanese language.

This is a map of Japan concerning the diversity of dialects in Japan (slide 2). This was studied and made by National Institute of Japanese Language. For instance, get up in the morning, okiru. Okiru means get up in the morning, and this shows all kinds of dialects for this particular verb okiru. This is the list of different dialects of standard Japanese verb okiru or get up in the morning and okujo or very strange, totally different words are there as dialects for this one word, verb, okiru (slide 3). So Japanese language is indeed diverse in dialects and different regions, people speak different dialects and sometimes it could be really difficult for them to understand with each other if they speak their dialects. As I mentioned, there are a lot of non-Japanese living in Japan who do not understand our standard Japanese language.

One case which we re-examined is the case about one offence. This served as an opportunity for me to think of Japan as a multilingual and multicultural society. I'm sure that when I speak of this particular case, many of you from Japan will understand this case very well, but I am told not to give you specific name of this case, so I have to say that this is a case of violation of election law. We got some data from the suspects involved in this case. I would like to share with you some of the data and analysis, and I asked one of the defense councils whether I could pass on to the

participants of this conference that data and material I am going to show on the screen, but he advised me not to do so. So, I cannot give you any specific material concerning this particular case. I'm sure that all of you understand the reason for this prohibition. Perhaps, you would bear with me as I go along.

This is the overview of the case. For the charges of a violation of an election law, 13 suspects were indicted and six suspects made confessions in the process of interrogation. However, in the trial, all of them pleaded non-guilty and the only evidence was the statements made by them during the interrogation, but they all pleaded not guilty and because of the lack of credibility of the statements taken by the police officer, all of them were acquitted as a matter of fact. We re-examined this case later on, and I was one of those who was engaged in this re-examination process, the study after they were acquitted.

These are the villages' pictures. This village is in a mountainous area, very few residents, only a little over 10 households in this mountainous village.

This shows the background regarding why we decided to re-examine this particular case. As a witness, Mr. A received interview. Our group was requested to make some psychological testing on him. He grew up in a mountainous area in this village, and he spoke in local dialect with his neighbors, but spoke a standard Japanese to people from outside. Before the trial, the defense lawyer and he went through various facts, but in the trial Mr. A began to say things which were not really agreed upon with his defense lawyer. The defense lawyer was really suspicious whether he had any mental deficiency or some psychological capabilities. For that suspicion, this defense lawyer asked us to perform some psychological testing, not only on this person – and then we went on to study not just him but other

people of the village involved in this case. Not me, but the psychologist performed a psychological test on Mr. A, and as a result, Mr. A was found to have some mild intellectual retardation and some difficulties in sensory integration.

I cannot give you further details but this was the finding. It seemed that he had some psychological deficits, impairments. Besides these psychological tests, our group had a chance to discuss with Mr. A and in certain cases we had difficulty talking with each other, so we decided to perform some vocabulary test on words which appeared in his statements taken by the police officer to see whether he really understood what was asked by the police officer. For instance, "Voluntarily – do you know what this means?" And he said, "No, I don't understand the word."

He can converse with us very naturally but there are words he couldn't understand. "Have you ever heard this word before?", and he said, "No." "Do you understand a phrase – going voluntarily to the police station?" "Yes, I understand." "Then, could you tell us what it means?" Then he said, "It's like police officer saying to me would you come to the police station with me because there is something I would like to speak with you." He seems to understand those things in a concrete manner, but he doesn't have an understanding of this abstract notion of 'voluntarily.'

Also, another person – another villager, a similar test was performed on him. "Do you understand what it means that – for charges or for alleged facts of the crime?" This was a phrase which was shown in the statements taken by the police officer and actually the statement was shown to him and this person signed, but actually he didn't understand this phrase at all. Another word "dismiss someone," then he says, "Dismiss the defense lawyer," but actually, he didn't understand what it meant at all, so he seems

to understand those phrases in concrete specific ways but he did not understand in the abstract notion.

The same goes for another for another villager. They seem to have difficulties understanding abstract notion so though they can understand in concrete specific terms. Another person, Mr. C from the same village. This is also about the words which appear in the statements they made in the interrogation process. Utility cost, he said, "I paid it myself." He spoke in dialects. Then, he can say such as "I pay it using the bank transfer." So, he understood it in very concrete ways but he didn't quite understand the abstract notion of utility cost.

This is another vocabulary test (slide 4). This has nothing to do with the statements during the interrogation process, but where does the sun rise? And Mr. A says, "From the East." Ms. B, "In the South" and Ms. C, "Well, many directions. It depends," she said. Mr. D, "From the East," Mr. E, "Maybe in the West." So, we were really puzzled by all of these answers. But if you go to that village, certainly it's surrounded by mountains, so for them what is very important is not really the direction such as East and South. Rather for them it is important the positions of different mountains, and perhaps, if you consider the relative position of the sun rising and also the mountains, they may say that the sun rises on different directions depending upon the position of the mountains you're talking about.

Another is the boiling point of the water. Different answers as you can see in this slide. Yes, all of them have no difficulty conversing with us and they seemed really normal on the surface, but sometimes they are really strange, and as you can understand from all of these answers, it gave us an impression that they live in a totally different world from ours.

So, from such interviews we gave them and studies we performed of them, especially those who were involved in that particular case for election law violation seemed to be living in a concrete world rather than in abstract world. This is an experiment by Luria about syllogistic reasoning (slide 5). This is the question: "In the far North, all the bears are white and one area is in the far North. What colors are bears there?" One of the subjects answered, "I've never been to the far North. I've never seen the bear so in order for me to answer that question, I have to go to that North area and ask the person who has seen the bears." So, it seems to me a person living in a very concrete specific world seems to think in a very specific way reflecting their cultural context. It's not that they are very much intellectually impaired.

Another research by Cole and Scribner, in a different community they performed such an experiment. The question is "Spider and Black Deer always eat together. Spider is eating now. Is Black Deer eating?" The elder of the village asked, "Were they in the bush? Were they eating together?" So, the interviewer repeated the same explanation but the elder after all said "I wasn't there so how can I answer such a question?" So this elder lives in a very concrete world. As a result, these two people just talk parallel to each other.

Coming back to that specific case, there seemed to be a gap in cultures and their thinking style; and that may be the reason why the investigators and suspects were not able to understand each other. And after all, it ended up in a failure case.

During the interrogation process, there were a lot of communication difficulties. So, we asked Mr. B whether he was given a chance at the end of the interrogation process every day, whether the interviewer reviewed the

statement he took with him. Ms. B – but actually, she said that she was told just sign the statement, and they never asked her whether there were words they couldn't understand. So, I think if they have such serious difficulties in communicating with suspects, they should stop the interrogation – interviewing at that stage.

This is for Ms. C. She said “Yes, I had a chance to review the statement taken by the police officer with him during the interrogation process, but they wrote down the things I never said, and there are things they just listened to me when I got really angry.” For Mr. E, “There were things I didn't say at all, so I didn't sign, but then, the police officer said that this is something we produce as a report. It's not your business.” Then we asked them whether harassment done by investigator. Then he said, “No.”

Very surprising facts were revealed out of this post-talk investigation or examination on our part. So, dialect has its thinking style and the standard language has its another thinking style (slide 6). The legal or the judicial language has its cultural and linguistic background. Because of these gaps and differences, many contradictions took place, but interrogation process never stopped at any of such errors in the case I mentioned earlier. As a result, that case failed from the viewpoints of the public prosecutor's office.

Now, we had a chance to visit a women's community correction center in Hawaii and director told us as follows, “Yes, there are many criminals and they come from different linguistic and cultural backgrounds in Hawaii. On the other hand, the investigation officers come from different ethnic and cultural backgrounds. So efforts are made to make sure that the interviewer and interviewee come from the same cultural or linguistic backgrounds.” So, there is such a community like Hawaii where the things are done more properly, taking into consideration different cultural and ethnic



backgrounds.

Now, discussion concerning audio-video taping of interrogation is indeed a very important discussion, but it's not that audio and video taping, if it's done, everything is okay. Rather from such an audio-video taping of interrogation process, we will be able to understand what difficulties and differences may arise out of such differences between linguistic and cultural or thinking style. And by understanding all of these differences, we might be able to move towards a more inclusive judicial culture and we might be able to make a step further to an inclusive society where people from different backgrounds are able to communicate with each other.

Thank you very much for your attention.

Makoto Ibusuki

Thank you very much, Professor Inaba.

